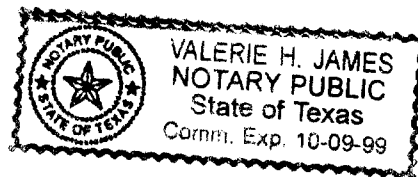


service to SNET's local exchange and cellular customers in Connecticut, Rhode Island or western and southeastern Massachusetts.


James S. Kahan

Subscribed and sworn to before me this 23rd day of April, 1998.


Notary Public




AFFIDAVIT OF ANNE U. MACCLINTOCK

STATE OF CONNECTICUT)
) SS: NEW HAVEN
COUNTY OF NEW HAVEN)

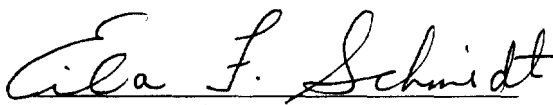
ANNE U. MACCLINTOCK, being duly sworn, deposes and says:

1. I am the Vice President-Regulatory Affairs and Public Policy for Southern New England Telecommunications Corporation ("SNET"). In that capacity, I am responsible for developing public policy positions and long-term regulatory and legislative plans to implement corporate and business unit strategies, as well as management of state and federal regulatory proceedings, on behalf of SNET. I am familiar with the negotiations which led to the announced merger of SNET and SBC Communications, Inc. ("SBC").

2. As SNET and SBC stated in their applications to transfer to SBC control of the FCC licenses and authorizations held by subsidiaries of SNET, SNET had no plans to enter the local exchange business in SBC's operating territories or to market long distance service to SBC's local exchange and cellular customers in those territories.


Anne U. MacClintock

Subscribed and sworn to before me
this 27th day of April, 1998.


Notary Public CILA F. SCHMIDT, NOTARY PUBLIC
MY COMMISSION EXPIRES AUG. 31, 1998

**EXHIBIT NO. 3
To Joint Opposition
Of SBC and SNET**

**APPENDIX TO JOINT OPPOSITION OF SBC COMMUNICATIONS
INC. AND SOUTHERN NEW ENGLAND TELECOMMUNICATIONS
CORPORATION TO PETITIONS TO DENY AND
REPLY TO COMMENTS**

This Appendix responds in detail to several specific allegations made by MCI in its comments regarding the SBC/SNET merger. It shows that not only are the specific charges raised by MCI without factual basis, but also that the issues they cover are properly the subject of other proceedings, either before the CDPUC or the Commission.

1. Interconnection Agreement: MCI alleges that SNET has “refused to negotiate” an interconnection agreement with MCI and asks the FCC to “[r]equire SNET to execute its interconnection agreement with MCI.”¹ This claim is false.

Pursuant to sections 251 and 252 of the Communications Act,² SNET and MCI conducted interconnection negotiations between April and September of 1996. The parties were unable to reach an agreement, and MCI requested arbitration pursuant to section 252(b) of the Act. On December 24, 1996, the Arbitrator issued an arbitration award,³ which was formally submitted to the CDPUC for approval. On January 10, 1997, the CDPUC approved the award, subject to additional arbitration.⁴ Following additional

¹ MCI Comments, pp. 2, 10.

² 47 U.S.C. §§ 251, 252.

³ See In re Application of MCI for Arbitration with the Southern New Eng. Tel. Co. Under the Telecomm. Act of 1996, Decision, Dkt No. 96-09-09, <<http://www.state.ct.us/dpuc>> (Conn. D.P.U.C. Jan. 10, 1997) (“Jan. 1997 Arbitration Award”).

⁴ See id.

arbitration, the Arbitrator issued a rearbitration award,⁵ which the CDPUC approved with modifications on April 23, 1997.⁶ MCI has appealed the CDPUC's final decision to the federal district court in Connecticut.⁷ Pending the outcome of that appeal, SNET has filed a tariff that incorporates the rates contained in the CDPUC's final arbitration decision.⁸ SNET's tariff was approved by the CDPUC and took effect on August 1, 1997.⁹ SNET subsequently has been providing interconnection, unbundled elements, and resold services to MCI under the tariff reflecting the arbitration award.

2. Cost-Based Rates for UNEs: MCI alleges that "SNET has encouraged the CDPUC to set rates for interconnection and unbundled elements that are not based on its forward-looking costs."¹⁰ This claim is false. MCI asks the FCC to require SNET to adopt permanent prices "at efficient forward-looking economic cost."¹¹ There is no reason for the Commission to do so.

The CDPUC has found that SNET's rates for interconnection and unbundled network elements are based on forward-looking economic costs. The CDPUC began

⁵ The rearbitration award was submitted to the CDPUC on February 14, 1997. See In re Application of MCI Telecomm. Corp. for Arbitration Pursuant to Section 252(b) of the Telecomm. Act of 1996, Decision, Dkt No. 96-09-09, <<http://www.state.ct.us/dpuc>> at 1 (Conn. D.P.U.C. Apr. 23, 1997) ("Apr. 23, 1997 SNET-MCI Arbitration Order").

⁶ See id.

⁷ MCI Telecomm. Corp. v. Southern New Eng. Tel. Co., No. 397 CVO 119 AWT (D. Conn. filed June 6, 1997).

⁸ Southern New England Telephone Co., Conn. D.P.U.C. Access Service Tariff § 18, 1st revised page 18-72.1 (effective Aug. 1, 1997).

⁹ See id.

¹⁰ MCI Comments, p. 3.

¹¹ MCI Comments, p. 9.

proceedings to establish cost-based rates in 1994,¹² pursuant to Public Act 94-83.¹³ On June 15, 1995, the CDPUC required SNET to establish rates for unbundled elements based on a Total Service Long Run Incremental Cost ("TSLRIC") model and found that SNET's "cost methodologies and associated cost studies exhibit a forward looking orientation in their design and construction."¹⁴ During these proceedings, the CDPUC explicitly rejected the cost models that MCI submitted.¹⁵ SNET subsequently submitted proposed rates, which the CDPUC ordered SNET to revise.¹⁶ Before SNET submitted its revised rates, however, Congress enacted the 1996 Act.¹⁷ The CDPUC thereupon

¹² See In re DPUC Investigation into the Southern New Eng. Tel. Co.'s Cost of Providing Service, Decision, Dkt No. 94-10-01, <<http://www.state.ct.us/dpuc>> at 3-5, 1997 WL 509180, *2-*3 (Conn. D.P.U.C. June 15, 1995) (detailing CDPUC proceedings initiated to implement Public Act 94-83) ("SNET's Cost of Providing Service").

¹³ The Connecticut legislature enacted Public Act 94-83 in order to foster telecommunications competition in Connecticut.

¹⁴ SNET's Cost of Providing Service, web site at 20, 1997 WL 509180, at *18.

¹⁵ The CDPUC found that "the unanticipated effect of MCI['s] proposed approach would be the creation of a phantom network where the economic composition of that network will increasingly have no relationship to the physical reality of the local exchange network." Id. at 21, 1997 WL 509180, at *19. The CDPUC stated that it had made a "thorough examination of MCI's submissions in this proceeding." Id., 1997 WL 509180, at *19.

¹⁶ See In re Application of the Southern New Eng. Tel. Co. for Approval to Offer Unbundled Loops, Ports and Associated Interconnection Arrangements, Decision, Dkt No. 95-06-17, <<http://www.state.ct.us/dpuc>> at 82, 1995 WL 803837, at *74 (Conn. D.P.U.C. Dec. 20, 1995) ("Dec. 20, 1995 CDPUC Unbundling Order").

¹⁷ The CDPUC determined that nothing in the 1996 Act was "inconsistent with the efforts expended by this Department to set SNET's rates for interconnection and network elements at TSLRIC plus a reasonable contribution." In re Application of the Southern New Eng. Tel. Co. for Approval to Offer Unbundled Loops, Ports and Associated Interconnection Arrangements-Reopened, Decision, Dkt No. 95-06-17, <<http://www.state.ct.us/dpuc>> at 5 (Conn. D.P.U.C. Mar. 25, 1997) ("Mar. 25, 1997 CDPUC Unbundling Order").

initiated a new proceeding to reexamine SNET's cost studies in light of the 1996 Act.¹⁸

The CDPUC found that SNET had submitted sufficient documentation to support its cost studies and that SNET's proposed UNE rates met the requirements of section 251(d)(1) of the Communications Act.¹⁹ The CDPUC required SNET to file tariffs by May 1, 1997. SNET filed tariffs on May 1 that became effective on May 31, 1997.²⁰

3. Rate Deaveraging: MCI alleges that SNET "is charging rates for most unbundled elements based on state-wide average costs rather than deaveraged costs."²¹ This claim is false.

SNET currently offers unbundled loops at geographically deaveraged rates. SNET offers different loop rates for "Metro," "Urban," "Suburban," and "Rural" wire

¹⁸ In re DPUC Investigation into the Southern New Eng. Tel. Unbundled Loops, Ports and Associated Interconnection Arrangements and Universal Service Fund In Light of the Telecomm. Act of 1996, Decision, Dkt No. 96-09-22, <<http://www.state.ct.us/dpuc>> (Conn. D.P.U.C. Apr. 23, 1997) ("CDPUC Unbundled Loops Investigation"). In addition, on June 5, 1996, the CDPUC reopened docket 95-06-17 for the limited purpose of reviewing SNET's revised cost studies and reexamining interim rates established in its December 20, 1995 decision. See In re Application of the Southern New Eng. Tel. Co. for Approval to Offer Unbundled Loops, Ports and Associated Interconnection Arrangements – Reopened Proceeding, Decision, Dkt No. 95-06-17, <<http://www.state.ct.us/dpuc>> (Conn. D.P.U.C. June 5, 1996).

¹⁹ See CDPUC Unbundled Loops Investigation, website at 59. The CDPUC again rejected MCI's proposed cost methodology. See id. at 50.

²⁰ See Letter of 5/1/97 from Kathleen Carrigan, Senior Counsel, SNET, to Robert Murphy, Executive Secretary, CDPUC in Dkt No. 96-09-22 (filing Revised Conn. Access Service Tariff §§ 14, 18 (effective May 31, 1997)).

²¹ MCI Comments, p. 3.

centers.²² The CDPUC has approved this arrangement.²³ SNET does not plan to offer other unbundled elements at geographically deaveraged rates because the costs for other unbundled elements, unlike the costs of providing loops, do not vary significantly with geography.

4. Provision of Certain UNEs: MCI alleges that SNET “refuses to sell certain unbundled elements” and asks the FCC to require SNET to provide competitors with various items, including subloops, dark fiber, shared transport and UNE platforms.²⁴ These claims are the subjects of numerous proceedings before the FCC and the CDPUC.

The FCC and the CDPUC have already conducted, or are in the process of conducting, extensive proceedings to determine the specific unbundled network elements that SNET must provide to competitive local exchange carriers (“CLECs”). SNET has committed to provide each of the unbundled network elements that the FCC identified in the Local Interconnection Order.²⁵ The CDPUC is currently evaluating SNET’s proposal

²² See Southern New England Telephone Co., Conn. D.P.U.C. Access Service Tariff, § 18.6.2.1, 5th revised page 18-42 (effective Oct. 3, 1997), 1st revised page 18-42.2 (effective Oct. 3, 1997), 3rd revised page 18-43 (effective May 31, 1997), 1st revised page 18-43.1 (effective Mar. 31, 1998), 1st revised page 18-44 (effective May 31, 1997), 2nd revised page 18-45 (effective May 31, 1997); see also Dec. 20, 1995 CDPUC Unbundling Order, website at 15-16, 1995 WL 803837, at *13-*14 (describing SNET’s proposed rates).

²³ See Dec. 20, 1995 CDPUC Unbundling Order, website at 78-79, 1995 WL 803837, at *70-*71 (establishing interim rates for different wire centers.)

²⁴ MCI Comments, pp. 3, 9.

²⁵ In re Implementation of the Local Competition Provisions of the Telecomm. Act of 1996, First Report and Order, 11 FCC Rcd. 15,499 (1996) (“Local Interconnection Order”). The FCC opted to adopt a minimum list of UNEs rather than an “exhaustive list of required unbundled elements.” *Id.* ¶¶ 241-43.

to offer those unbundled network elements that the FCC specified in the Local Interconnection Order.²⁶ MCI is a participant in those proceedings.

a. Subloops: Both the FCC and the CDPUC have considered whether to require SNET to provide subloop unbundling. In its Local Interconnection Order, the FCC explicitly declined to require incumbent LECs to provide subloops, including loop concentrators/multiplexers.²⁷ Although individual States are free to require subloop unbundling,²⁸ the CDPUC has not chosen to do so. In arbitration proceedings, the CDPUC declined to require SNET to provide subloop unbundling.²⁹

b. Dark Fiber: Both the FCC and the CDPUC have declined to require SNET to unbundle dark fiber.³⁰ As numerous state regulatory commissions have found, dark fiber is not a “network element,” and it is therefore not subject to the Act’s unbundling requirements.³¹

²⁶ The CDPUC is evaluating SNET’s proposal in Docket No. 97-04-10. See In re Application of the Southern New Eng. Tel. Co. for Approval of Total Service Long Run Incremental Cost Studies and Rates for Unbundled Elements, Dkt No. 97-04-10 (Conn. D.P.U.C. filed Apr. 4, 1997). The CDPUC has also examined SNET’s UNE offerings in Docket No. 96-09-22. See CDPUC Unbundled Loops Investigation, website at 9.

²⁷ See Local Interconnection Order, ¶¶ 383-91.

²⁸ See id. ¶ 391 n.851.

²⁹ See Jan. 1997 Arbitration Award, website at 39.

³⁰ See Local Interconnection Order, ¶ 450 (“We also decline . . . to address the unbundling of incumbent LECs’ ‘dark fiber.’ . . . [W]e lack a sufficient record on which to decide this issue.”). The arbitrator did not require SNET to unbundle dark fiber despite MCI’s request that it do so. See Jan. 1997 Arbitration Award, website at 37 (listing network elements that SNET is required to unbundle).

³¹ See, e.g., In re AT&T Communications of the S. States, Inc., Final Order on Arbitration, Dkt No. 960833-TP, 1996 WL 765150, at *11 (Fla. Pub. Serv. Comm’n Dec. 31, 1996) (“[W]e find that dark fiber is not a network element, as defined by the Act, because it is not a facility or equipment used in the provision of a telecommunications service”); In re Application of MCI Telecomm. Corp. for Arbitration Pursuant to
Footnote continued on next page

c. Shared Transport: Although the FCC has required incumbent LECs to provide shared transport,³² that requirement conflicts with the explicit holding of the Eighth Circuit in Iowa Utilities Board v. FCC that incumbent LECs are not required to recombine individual network elements.³³ The Eighth Circuit is expected to resolve

Footnote continued from previous page

Section 252(b) of the Telecomm. Act of 1996 to Establish an Interconnection Agreement with GTE Cal., Inc., No. 96-09-012, at 34 (Cal. P.U.C. Sept. 10, 1996) ("Since dark fiber is not used to provide telecommunications services . . . GTEC shall not be required to unbundle its dark fiber."); In re AT&T Communications of the S. Cent. States, Inc., Order, Dkt No. U-22145, 1997 WL 191018, at *25 (La. Pub. Serv. Comm'n Jan. 15, 1997) (dark fiber "is by definition unused, and therefore it is not a 'network element'"); In re Petition of MCI Metro Access Transmission Services, Inc. for Arbitration of Its Interconnection Request to Bell Atlantic-PA, Inc., Opinion and Order, No. A-310236F0002, at 25 (Pa. P.U.C. Dec. 19, 1996) ("Bell is not required to unbundle dark fiber"); In re AT&T Communications of Washington, D.C., Inc. Petition for Arbitration Pursuant to Section 252(b) of the Telecomm. Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic, Arbitration Decision, Case 1, at 23 (D.C. Pub. Serv. Comm'n Dec. 2, 1996) (dark fiber is "not a network element and . . . BA-DC is not required to provide unbundled access"); In re MCI Telecomm. Corp., Opinion and Order, Case No. 96-C-0787, 1996 WL 765309, at *12 (N.Y. Pub. Serv. Comm'n Dec. 23, 1996) (PSC "agree[s]" that "New York Telephone has no obligation under the Act to provide dark fiber"); In re AT&T Communications of Ind., Inc., Opinion, Cause No. 40571-INT02, 1996 WL 862753, at *14 (Ind. Util. Regulatory Comm'n Dec. 12, 1996) ("GTE is not required to provide access" to dark fiber); In re Petitions for Approval of Agreements and Arbitration of Unresolved Issues Arising Under Section 252 of the Telecomm. Act of 1996, Order, No. 73010, <<http://www.psc.state.md.us/psc/>> at 34, 1996 WL 769753 (Md. Pub. Serv. Comm'n Nov. 8, 1996) (the Commission "disagree[s] with AT&T and MCI that Bell Atlantic should be required to provide" dark fiber); In re Interconnection Agreement Negotiations Between AT&T Communications of the S. Cent. States, Inc. and BellSouth Telecomm., Inc., Order, Dkt No. 96-AD-0559, at 27-28 (Miss. Pub. Serv. Comm'n Feb. 12, 1997) ("BellSouth should not be required to provide dark fiber as an unbundled network element").

³² See Local Interconnection Order, ¶ 258.

³³ See Iowa Utils. Bd. v. FCC, 120 F.3d 753, 813 (8th Cir. 1997), cert. granted sub nom. AT&T Corp. v. Iowa Utils. Bd., 118 S.Ct. 879 (1998) ("Despite the Commission's arguments, the plain meaning of the Act indicates that the requesting carriers will combine the unbundled elements themselves; the Act does not require the incumbent LECs to do all of the work.").

the tension between these two requirements in Southwestern Bell Telephone Co. v. FCC,³⁴ which was argued on January 15, 1998. Pending the outcome of this petition for review, SNET will not provide shared transport. In addition, the CDPUC recently has opened an investigation specifically to address SNET's obligation to provide shared transport.³⁵

d. UNE Platforms: Although both the FCC and the CDPUC initially required SNET to provide combinations of unbundled network elements,³⁶ the Eighth Circuit has held that incumbent LECs are not required to recombine unbundled network elements into UNE platforms.³⁷ The Supreme Court will review the Eighth Circuit's decision next term.³⁸ Additionally, on February 2, 1998, the CDPUC opened a docket to determine whether to require SNET to rebundle network elements in light of the Eighth Circuit's decision.³⁹

5. Bona Fide Request Process: MCI asks the FCC to "[p]rohibit SNET from requiring MCI to engage in a lengthy bona fide request procedures [sic] to obtain certain UNEs."⁴⁰ There is no reason for the Commission to do so.

³⁴ File No. 97-3389 (8th Cir. filed Sept. 5, 1997).

³⁵ See In re DPUC Investigation into the Provision of Shared Transport, Dkt No. 98-02-27 (Conn. D.P.U.C. filed Mar. 3, 1998).

³⁶ See Jan. 1997 Arbitration Award, website at 39 (Issue 16); Local Interconnection Order, ¶ 4.

³⁷ See Iowa Utils. Bd., 120 F.3d at 813.

³⁸ See AT&T Corp., 118 S. Ct. at 879 (granting certiorari).

³⁹ See In re DPUC Investigation into Rebundling of Tel. Co. Network Elements, Notice of New Application Dkt No. 98-02-01, <<http://www.state.ct.us/dpuc>> (Conn. D.P.U.C. Feb. 2, 1998).

⁴⁰ MCI Comments, p. 9.

SNET's bona fide request ("BFR") process has been approved by the CDPUC and is being used today by competitive local exchange carriers in Connecticut. MCI, however, has not submitted a single bona fide request to SNET asking for individual or combined unbundled network elements.⁴¹ On April 7, 1995, SNET filed with the CDPUC an Executed Unbundling and Resale Stipulation signed by SNET, MCI, and others. The CDPUC stated that the Stipulation delineated "administrative processes to be employed in responding to subsequent requests for further unbundling in the future" and adopted the Stipulation as the policy of the Department.⁴² The process contained in the Stipulation is nearly identical to the BFR process approved in SNET and MCI's arbitration agreement.⁴³

⁴¹ MCI has submitted only one bona fide request, for a Network Data Mover feed, which provides a link for SNET and MCI to exchange billing information.

⁴² In re DPUC Investigation into the Unbundling of the Southern New Eng. Tel. Co.'s Local Telecomm. Network, Decision, Dkt No. 94-10-02, <<http://www.state.ct.us/dpuc>> at 46, 1995 WL 807764, at *42 (Conn. D.P.U.C. Sept. 1, 1995) ("CDPUC SNET Unbundling Investigation"). Signatories of the Stipulation included SNET, MCI, TCG, MFS, AT&T, Sprint, Cablevision Lightpath, the Office of Consumer Counsel, and the Attorney General. According to the CDPUC, "MCI [has] note[d] that the participants in th[e] proceeding have stipulated to the unbundling of certain elements of SNET's network; MCI [has] support[ed] the Stipulation and [has] urge[d] the Department to adopt it." *Id.* at 37, 1995 WL 807764, at *34. The CDPUC stated that the Stipulation reflected "full and fair consideration of the signatories['] respective interests and provide[d] an acceptable development framework for Connecticut CLECs to formulate essential interconnection agreements with SNET. . . . The terms and conditions contained therein will be applied to SNET and all current and future CLECs." *Id.* at 47, 1995 WL 807764, at *43.

⁴³ *See id.* at 83-84, 1995 WL 807764, at *76-*77 ("Process for Requests for Further Unbundling and Resale").

6. Billing and Collection Agreements: MCI alleges that "SNET has prevented MCI and others from offering vertical services simply by refusing to renew billing and collection agreements."⁴⁴ This claim is false.

MCI's ability to offer vertical services in Connecticut does not depend in any respect on having a billing and collection agreement with SNET. MCI can and does offer vertical services in Connecticut today. As of February 1998, MCI was offering fifteen different vertical features to its business subscribers and seven different vertical features to its residential customers.⁴⁵ SNET is not required to provide billing and collection services on an unbundled basis in connection with either local or interexchange services.⁴⁶ Pursuant to the 1996 Act⁴⁷ and CDPUC requirements,⁴⁸ SNET provides all competitive local service providers with the information that they need to perform their own billing and collection.

⁴⁴ MCI Comments, p. 3.

⁴⁵ See MCI Metro Access Transmission Services Inc., Conn. D.P.U.C. Local Exchange Service, Tariff No. 4 § 3 (effective Feb. 24, 1996).

⁴⁶ As both the FCC and the CDPUC have found, the market for billing and collection provided to interexchange carriers is fully competitive, and SNET provides these services to MCI and others on a detariffed and unregulated basis. See In re Detariffing of Billing and Collection Services, Memorandum Opinion and Order, 1 FCC Rcd. 445, ¶¶ 2, 10 (1986); In re Investigation into Termination of Intrastate Tel. Service For Non-Payment of Interstate Charges, Order, Dkt No. 89-11-13, <<http://www.state.ct.us/dpuc>> at 3, 1991 WL 501855 (Conn. D.P.U.C. June 26, 1991).

⁴⁷ See 47 U.S.C. § 251(c)(3); Local Interconnection Order, ¶ 262 ("network element" includes "information sufficient for billing and collection.").

⁴⁸ See In re DPUC Investigation into the Unbundling of the Southern New Eng. Tel. Co.'s Local Telecomm. Network, Decision, Dkt No. 94-10-02 <<http://www.state.ct.us/dpuc>> at 92 (Conn. D.P.U.C. Jan. 17, 1996).

7. Intercept Services: MCI claims that SNET “has not cooperated with MCI in providing” intercept services to MCI customers – that is, “services which inform callers of a customer’s new number with MCI when the callers dial the customer’s old number with SNET.”⁴⁹ This claim is false.

SNET has treated MCI’s and other competitors’ customers in exactly the same manner that SNET treats its own customers. SNET provides all customers who change their telephone number – whether from one SNET number to another SNET number, or from an SNET number to another provider’s number – with free call reference services for six months or, with respect to Direct-Inward-Dialing customers, at cost-based rates.⁵⁰

8. Customer Service Records: MCI alleges that “SNET . . . has delayed providing MCI with Customer Service Records and frequently has provided inaccurate records, which then causes SNET to reject MCI’s service orders.”⁵¹ This claim is false.

SNET has provided MCI and other competitors with accurate Customer Service Records within the time frames that SNET has committed to meet. SNET has established a Customer Information Group to handle the requests of MCI and other competitors. The group processes all requests for Customer Service Records on a first-in/first-out basis and has processed most requests within 24 hours of receiving them. SNET has committed to processing all requests within seven to ten working days from the receipt of such

⁴⁹ MCI Comments, p. 3.

⁵⁰ See Southern New England Telephone Co., Conn. D.P.U.C. General Exchange Tariffs pt. II, § 34, sheet 2 (effective Aug. 1, 1997); Southern New England Telephone Co., Conn. D.P.U.C. Access Service Tariff § 18-38.1 (effective Dec. 24, 1997).

⁵¹ MCI Comments, p. 3.

requests.⁵² A longer time may be necessary to gather the service records of large customers, which tend to be very voluminous.

9. Resale: MCI alleges that SNET “will not sell telecommunications services to MCI at wholesale rates.”⁵³ This claim is false.

SNET has supplied MCI and others with more than 30,000 lines for resale.⁵⁴ SNET has filed “wholesale companion tariffs” for all services that it currently has available for retail sale.⁵⁵ The rates contained in SNET’s tariffs were approved by the CDPUC after extensive proceedings in which MCI participated.⁵⁶

⁵² See Network Marketing & Sales, SNET, Certified Local Exchange Carrier Guide (2d ed. 1997) in SNET’s Resp. to Interrog. TE-3, Attach. A in CDPUC Dkt. No. 97-08-06 (filed Sept. 24, 1997) (“CLEC Guide”).

⁵³ MCI Comments, p. 3.

⁵⁴ See Public Interest Statement attached to the Applications at p. 30.

⁵⁵ See Letter of 12/10/97 from Kathleen Carrigan, Senior Counsel, SNET, to Robert Murphy, Executive Secretary, CPDUC in Dkt. No. 95-06-17 (filing Conn. Access Tariff (effective Jan. 1, 1998)).

⁵⁶ The CDPUC originally set wholesale rates for resale services in 1995. See Dec. 20, 1995 CDPUC Unbundling Order, website at 78-79, 1995 WL 803837, *70-*71. Following the passage of the 1996 Act, the CDPUC reevaluated the wholesale rate to ensure its compliance with section 252(d)(3) of the Communications Act. See Mar. 25, 1997 CDPUC Unbundling Order, website at 8. The CDPUC rejected MCI’s cost methodology in that proceeding. The CDPUC concluded that “SNET has complied with the requirements of Section 252(d)(3) of The Telecommunications Act of 1996.” *Id.* at 30. In its submission, SNET asserted that “its proposed discount [was] predicated upon a critical examination of forward looking, not historical, costs of providing telecommunications services.” *Id.* The CDPUC pronounced that it was “confident that SNET[’]s avoided cost study will serve as a financial baseline to this Decision.” *Id.* The CDPUC adopted a discount rate of 17.8 percent and ordered SNET to file tariffs for all services that it had available for resale. The CDPUC also noted that parties were free to negotiate deeper discount rates subject to the CDPUC’s approval. See *id.* at 31.

In accordance with the Mar. 25, 1997 CDPUC Unbundling Order: (i) SNET offers promotional rates for all promotions that are 90 days or longer;⁵⁷ (ii) SNET does not offer CLECs the discounted rates that it offers to retail customers for service packages that contain only competitive services;⁵⁸ and (iii) SNET does not resell its market trials.⁵⁹ Moreover, in keeping with the 1996 Act and Connecticut law, SNET does not resell voice mail, which is not considered a “telecommunications service” and is therefore not subject to resale obligations.⁶⁰

10. Directory Assistance Database: MCI asks the FCC to “[r]equire SNET to provide an electronic copy (with periodic updates) of SNET’s directory assistance database, priced at economic cost.”⁶¹ MCI made this identical request in arbitration proceedings, where it was rejected.

SNET does offer MCI and other competitors access to SNET’s directory assistance database at rates set forth in its tariff. SNET’s Electronic Data Access service permits MCI and other competitors to obtain directory assistance listing information by querying SNET’s database, which is the same database that SNET’s operators use to provide directory assistance.⁶² MCI has chosen not to purchase this service.

⁵⁷ See Mar. 25, 1997 CDPUC Unbundling Order, website at 37 (finding 15).

⁵⁸ See id.

⁵⁹ See id.

⁶⁰ The 1996 Act defines and regulates voice mail as an information service. See 47 U.S.C. § 153(20). Under Connecticut statutory law, voice mail is not a telecommunications service. See Conn. Gen. Stat. Ann. § 16-247a(b)(6).

⁶¹ MCI Comments, p. 9.

⁶² See Southern New England Telephone Co., Conn. D.P.U.C. Access Service Tariff § 14-1 (effective Jan. 3, 1996); Southern New England Telephone Co., FCC Tariff No. 39 § 9.7 (effective June 9, 1994).

11. Collocation: MCI asks the FCC to “[p]rohibit SNET from refusing to collocate equipment for economic reasons.”⁶³ This request is baseless.

SNET has not refused to provide collocation to MCI or any other competitor. In accordance with the 1996 Act⁶⁴ and CDPUC regulations,⁶⁵ SNET provides physical collocation to all competitors, except where space or technical limitations require SNET to provide virtual collocation instead.⁶⁶ MCI has obtained physical collocation for all of the wire centers in which it has requested collocation. SNET has 20 collocation arrangements in place at wire centers throughout Connecticut.⁶⁷

12. Service Migration: MCI alleges that, when customers have switched service from SNET to MCI, SNET has “allow[ed] customer service to be interrupted for a full day” and has “refus[ed] to notify MCI of migration delays or other problems.”⁶⁸ This claim is false.

⁶³ MCI Comments, p. 9.

⁶⁴ The 1996 Act and the FCC’s implementing regulations require incumbent LECs to offer requesting carriers physical collocation, absent space or technical limitations. See 47 U.S.C. § 251(c)(6); Local Interconnection Order, ¶ 616. SNET expanded its collocation tariff to accommodate local exchange service providers effective January 3, 1996. See Southern New Eng. Tel. Co., Conn. D.P.U.C. § 14.1 (effective Jan. 3, 1996); see also Dec. 20, 1995 CDPUC Unbundling Order.

⁶⁵ The CDPUC required expanded interconnection and collocation beginning in 1994. See In re DPUC Investigation into Rates and Charges Incurred by Competitive Service Providers to Access the Pub. Switched Telecomm. Network, Decision, Dkt No. 91-03-02, <<http://www.state.ct.us/dpuc>> (Conn. D.P.U.C. May 5, 1994); see also Dec. 20, 1995 CDPUC Unbundling Order, website at 82, 1995 WL 803837, at *74 (approving interim rates for interconnection arrangements).

⁶⁶ SNET has not yet received a collocation request that it has been required by space or technical limitations to satisfy through virtual collocation.

⁶⁷ See SNET’s Resp. to Interrog. OCC-110 in CDPUC Dkt No. 98-02-20.

⁶⁸ MCI Comments, p. 3.

SNET has devoted extensive resources to improving its systems and eliminating service interruptions. SNET now performs all cutovers within a two-hour window that is available to all CLECs, including MCI. SNET attempts to complete all cutovers as early in the two-hour window as possible. This process is in accordance with the terms of Section 3 (Ordering and Provisioning) of its CLEC Guide.⁶⁹ Moreover, the CDPUC is currently addressing issues relating to intervals and service standards in its OSS and service standards dockets.⁷⁰

13. Performance Standards: MCI asks the FCC to require SNET to implement "performance standards, measurements and self-executing enforcement mechanisms."⁷¹ This request is baseless.

Both the FCC and the CDPUC have considered adopting performance standards in other proceedings. The FCC has decided not to adopt national performance standards, choosing instead to allow States to adopt their own standards and to let parties incorporate standards into interconnection agreements.⁷² The CDPUC is in the process of

⁶⁹ See note 52 above. In addition, SNET will fulfill special service requests (e.g., for service installations outside of normal business hours) at tariffed rates. See Southern New England Telephone Co., Conn. D.P.U.C. Access Service Tariff § 6.7.2, 1st revised page 6-14 (effective Aug. 1, 1996).

⁷⁰ See SNET's Resp. to Interrogs. ATT-123 to ATT-159 in CDPUC Dkt. No. 97-08-06 (filed Mar. 30, 1998). In addition, the Commission released an NPRM on OSS this month. See In re Performance Measurements and Reporting Requirements for Operations Support Sys., Interconnection, and Operator Services and Directory Assistance, Notice of Proposed Rulemaking, CC Dkt No. 98-56, 1998 WL 180809 (FCC Apr. 17, 1998).

⁷¹ MCI Comments, p. 9.

⁷² See In re Application of Ameritech Mich. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Mich., Memorandum Opinion and Order, Dkt No. 97-137, 12 FCC Rcd. 20,543, ¶ 141 (1997). On June 10, 1997 the FCC invited comments on whether it should initiate

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adopting additional performance standards in light of the 1996 Act.⁷³ The CDPUC issued a draft decision on March 13, 1998 that adopts certain performance measurements, achievement standards, and financial penalties. The draft decision also requires SNET to provide an implementation schedule and to report the process by which it will implement these measures and comply with the CDPUC's order.⁷⁴

14. PIC Freeze: MCI asks the FCC to condition the merger on the settlement of the current PIC-freeze litigation that exists between MCI and SNET.⁷⁵ There is no reason for the Commission to do so.

This issue is the subject of litigation in federal district court, and MCI and SNET are currently pursuing settlement negotiations regarding this matter.⁷⁶ Moreover, in the district court, MCI opposed SNET's motion to remove this litigation to the

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proceedings to address performance standards, reporting requirements, technical standards and damages provisions. See Comments Requested on Petition for Expedited Rulemaking to Establish Reporting Requirements and Performance and Technical Standards for Operations Support Sys., Public Notice, 12 FCC Rcd. 7720 (1997). No proposed rule was ever issued. The FCC was scheduled to address the issue at a meeting on April 2, 1998, but declined to do so. See Commissioners Daily Notebook, 18 Comm. Daily, Mar. 27, 1998, 1998 WL 10696175.

⁷³ See CDPUC Unbundled Loops Investigation, website at 58 ("Pending the completion of the Department[']s investigation of SNET[']s proposal and issuance of a Final Decision in Docket No. 97-04-23, SNET will be required to maintain the quality of service standards ordered Docket No. 95-03-01.").

⁷⁴ In re Application of the Southern New Eng. Tel. Co. for Fin. Review and Proposed Framework for Alternative Regulation, Decision, Dkt No. 95-03-01, <<http://www.state.ct.us/dpuc>> at 160-61 (Conn. D.P.U.C. Mar. 13, 1996).

⁷⁵ MCI Comments, pp.10-11.

⁷⁶ See MCI Telecomm. Corp. v. Southern New Eng. Telecomm. Corp., Nos. 3:97CV00810, 3:97CV01056 (D. Conn. Mar. 26, 1998) (denying SNET's motion to dismiss without prejudice based on representations that parties are pursuing settlement negotiations).

FCC.⁷⁷

15. Access Charges: MCI asks the FCC to reduce SNET's and SBC's access charges to "efficient forward-looking economic cost."⁷⁸ MCI also asks the Commission to direct SBC and SNET to "agree to non-discriminatory access charges for long distance calls between the two regions" and to implement "better rates" for these access charges.⁷⁹

MCI's request that the FCC set access charges at "efficient forward-looking economic cost" runs directly contrary to the FCC's latest Access Charge Reform Order.⁸⁰ MCI has filed a petition for review of this order that is now pending in the Eighth Circuit.⁸¹ This question of access charges has already been before the Commission and is now before the Court of Appeals. All interested parties have been participating in those proceedings, which are developing uniform rules for all LECs and IXC's. The Commission should not revisit this issue here. Indeed, nothing about this merger raises any question about access charges that justifies stepping outside of the imminent national framework to provide special treatment for IXC's with respect to SBC's and SNET's LECs.

⁷⁷ See Pl. MCI's Consolidated Mem. of Law in Opp'n to Def.'s Two Mots. to Dismiss and Mot. to Stay Disc., MCI Telecomm. Corp. v. Southern New Eng. Telecomm. Corp., Nos. 3:97CV00810, 3:97CV01056 (D. Conn. filed Sept. 10, 1997).

⁷⁸ MCI Comments, 10.

⁷⁹ Id.

⁸⁰ Access Charge Reform First Report and Order.

⁸¹ MCI Telecomm. Corp. v. FCC, No. 97-1404 (D.C. Cir. filed Jun. 18, 1997), transferred No. 97-2875 (8th Cir. Jun. 26, 1997).

Also, the CDPUC has established an investigation into intrastate access charges, and a decision in that proceeding is expected in June 1998.⁸²

⁸² See CDPUC Intrastate Rates Investigation.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Opposition of SBC Communications Inc. and Southern New England Telecommunications Corporation to Petitions to Deny and Reply to Comments was served on April 29, 1998 by hand on all of the following persons, with the exception of those outside the Washington, D.C. area, who were served by first-class mail:

Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

Commissioner Harold Furchtgott-Roth
Federal Communications Commission
1919 M Street, N.W.
Room 802
Washington, D.C. 20554

Commissioner Susan E. Ness
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

Commissioner Michael Powell
Federal Communications Commission
1919 M Street, N.W.
Room 844
Washington, D.C. 20554

Commissioner Gloria Tristani
Federal Communications Commission
1919 M Street, N.W.
Room 826
Washington, D.C. 20554

Carol Matthey
Acting Chief, Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 544
Washington, D.C. 20554 (2 copies)

Michael H. Pryor
Deputy Chief, Policy and Program
Planning Division, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 5304
Washington, D.C. 20554

Diane J. Cornell
Chief, Telecommunications Division
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 800
Washington, D.C. 20554 (2 copies)

Jeanine Poltronieri
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W.
Room 5002
Washington, D.C. 20554

David Furth
Chief, Commercial Wireless Division
Federal Communications Commission
2100 M Street, N.W.
Room 7023
Washington, D.C. 20554

Lawrence Strickling
Acting Chief, Competition Division
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W.
Room 658
Washington, D.C. 20554

Troy Tanner
Chief, Policy and Facilities Branch
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 800
Washington, D.C. 20554

Robert Calaff
Senior Legal Advisor
International Bureau
Federal Communications Commission
2000 M Street, N.W.
Room 819
Washington, D.C. 20554

Laura Smith, Attorney
Policy and Rules Branch
Commercial Wireless Division
Federal Communications Commission
2100 M Street, N.W.
Room 7111
Washington, D.C. 20554

International Transcription Service, Inc.
1231 20th Street, N.W.
Washington, D.C.

David A. Handzo
Jenner & Block
601 13th Street, N.W.
Washington, D.C. 20005

Lisa B. Smith
Senior Policy Counsel
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Frederick M. Joyce
Joyce & Jacobs, LLP
1019 19th Street, N.W.
14th Floor (PH #2)
Washington, D.C. 20036

Scott Blake Harris
Harris, Wiltshire & Grannis, LLP
1025 Connecticut Avenue, N.W.
Suite 1012
Washington, D.C. 20036

Robert L. Hoggarth
Angela E. Giancarlo
The Personal Communications Industry Association